

NWX DOC CONFERENCING (US)

Moderator: Heidi Lovett
June 12, 2014
2:00 pm CT

Coordinator: Well welcome and thank you for standing by. At this time all participants are in a listen-only mode until the question and answer sessions of today's call.

Today's conference is being recorded. If you have any objections please disconnect at this time. At that time if you'd like to ask a question or make a comment you may press Star 1.

I would now like to turn the meeting over to Mr. Keith Rizzardi. You may begin.

Keith Rizzardi: Thank you Lisa for your help today. Hi everybody this is Keith Rizzardi, Chairman of the Marine Fisheries Advisory Committee.

Appreciate the attendance of all of our members and glad to see that there is some folks from the public that have chosen to join and monitor.

There will be opportunities for the public to address MAFAC during our discussion today. So listen in for that. And I understand there's a process for you to queue up so that you can be all offered an opportunity to speak of some of our issues.

We have four depending on how you look at it four three or four topics that are on the list today. I'm planning on tackling them in the following order.

The first one is subsistence fishing where we have some recommendations for Magnuson-Stevens Act reauthorization amendment.

Then we'll be talking about the National Aquaculture Management Program. Henry Sesapasara will be leading the subsistence fishing, John Corbin, will lead the aquaculture and then the next piece of discussion will be about whether or not to recommend replacing overfished with depleted in the terminology of the Magnuson Act also how flexibility of rebuilding should be addressed. And Julie Morris and Dave Wallace may be weighing in on those topics.

What I'd like to do is tackle each of those topics in turn but before I do I want to give a couple of really big thank you's.

The first one is to Heidi Lovett who has done some really tremendous work for MAFAC in coordinating these conference calls, and circulating in the materials and helping us get prepared.

And, you know, with Mark's departure Heidi we were really counting on you and you've delivered so thank you very much.

Heidi Lovett: You're welcome. Thanks.

Keith Rizzardi: You bet. I also wanted to acknowledge the efforts of Henry, John and Julie who have all labored on getting some language together to reflect various member papers that have circulated. And we have these proposed recommendations that enable us to have pretty good discussion on each of these topics. And so Henry, and John and Julie thank you very much for all of your effort as well.

What I'm hoping to do is over the course of the next two hours maximum tackle the three topics. If we can't get through them all we have a second meeting that is noticed for June 17, and we can spill over into that - a discussion on the 17th if necessary.

I'm also hoping to allow the members to go back through the Managing our Nations Fishery 3 documentation and the MAFAC prioritization document that was circulated.

And on the 17th even if we do finish everything today we can have a quick call on what item members would like to see on our MAFAC agenda for the meeting in September 2014.

So with that what I'd like to do now is acknowledge Henry. And we're going to have a presentation from Henry's office...

Heidi Lovett: Keith...

Keith Rizzardi: Yes.

Heidi Lovett: ...excuse me we're going to do a roll call first.

Keith Rizzardi: Yes thank you Heidi. I'm...

Heidi Lovett: And that's okay. Ms. Lisa I see two of my members listed as in listen-only mode. Could you please change them to talk mode and that would be David Wallace and Robert Rheault? I guess Robert might be on talk but thank you.

I'm just double checking the list. Okay great. So I have a list of members I'll just read through the names quickly Ted Ames? Bob Rheault? Julie Bonney

Julie Bonney: Yes I'm on.

Heidi Lovett: Thank you. Dick Brame?

Dick Brame: I'm here.

Heidi Lovett: Columbus Brown?

Columbus Brown: I'm here.

Heidi Lovett: Tony Chatwin? Paul Clampitt?

Paul Clampitt: Here.

Heidi Lovett: John Corbin?

John Corbin: I'm on.

Heidi Lovett: Patty Doerr? I'm expecting Patty a little late. David Donaldson? Phil Dyskow?
Michele Longo Eder

Michele Longo Eder: Here.

Heidi Lovett: Thank you. Martin Fisher? Randy Fisher? Ken Franke? Liz Hamilton? Micah
McCarty? Julie Morris?

Julie Morris: Here.

Heidi Lovett: George Nardi?

George Nardi: Here.

Heidi Lovett: Bob Rheault is here Keith, Henry?

Henry Sesapasara: I'm here.

Heidi Lovett: Dave Wallace?

Dave Wallace: Here.

Heidi Lovett: And Pam Yochem? Okay thank you Keith.

Keith Rizzardi: Thank you Heidi.

Heidi Lovett: Oh I'm sorry may I also - there are some staff members here in the room with
me and I'll just allow them to go around and say their names for the record.

Zach Johnson : Zach Johnson , I'm an intern with the Office of General Counsel in Michigan.

Stacey Nathanson: Stacey Nathanson, NOAA General Counsel.

Susan Bunsick: Susan Bunsick, NOAA Fisheries Office of Aquaculture.

Josh Gangi: Josh Gangi, Office of Policy, Fisheries.

Alan Risenhoover: Alan Risenhoover, NOAA Fisheries.

Galen Tromble: Galen Tromble, Sustainable Fisheries.

Heidi Lovett: Thank you. Okay.

Keith Rizzardi: Thank you Heidi. I appreciate the robust attendance from the NOAA staff as well. Thanks everybody for being here and being part of this dialogue.

I know it's kind of awkward to hold a MAFAC meeting by teleconference but again I really appreciate the effort folks have put in thus far.

And Henry I'd like to turn to your first. And I'd like to hear your presentation on defining subsistence fishery - fishing and your recommendations for MSA reauthorization.

Henry Sesapasara: Thank you Keith. Before I go into my presentation I'd like to take this opportunity to thank Heidi for helping putting together this draft document distributed among the members. And I'd also like to thank the members that have sent in the comments.

Hello?

Keith Rizzardi: People need to be careful about putting things on hold. Some of us have music.

Heidi Lovett: Right. Is that understood for everyone on the call? If there's a lot of background noise in your room you might put us on mute so you can hear but we don't hear your background.

And please be cautious of putting us on hold because we'll hear the music on your hold machine wherever you're located, just a caution. Thank you.

Henry Sesapasara: I'll right I'll start against I like to thank Heidi for helping putting together this draft documents and as well as members of the committee that have sent in their comments and recommendations for this issue. Thank you all for your help.

During the Managing our Nations Fisheries 3 convention conference in Washington DC there was wide support of - there was wide support to differentiate subsistent fishing from recreation and commercial fishing in the reauthorization of the MSA.

This was also fortified original Fishery Management Council in all areas. In particular in the Western Pacific in some areas subsistence fishing is very important as part of their culture and the additional activities.

This included the territory of American Samoa, the territory of Guam, the Commonwealth of the Northern Mariana Islands, and Hawaii. And each of these ancillary areas have their own unique culture activities.

Western Pacific Fishery Management Council work in trying to defined the term to address the concern about these unique cultures.

Although we are our island entities but we have our own unique culture. And it was not easy for the West PAC or the Western Pacific Fishery Management

Council to try and come to a definition that would address the concern of all the entities in the Pacific.

So the Western Pacific to find an address is concerned of all these other island entities. The definition and discussing information were submitted in the early part of our discussion when I submitted this information from the Western Pacific Fishery Management Council.

Subsistence fishing is also important in other parts of the US such as the Alaska residents who fish for marine mammals in their culture and (unintelligible) use.

It is then important there should be a definition of subsistence fishing in the reauthorization of the MSA to differentiate it from recreation and commercial fishing.

Now that being said as a document that was circulated earlier there were five options or alternatives recommendation that we consider.

Upon review of the definition by the Western Pacific Fishery Management Council other related tribal actions such as the final rules on fishing Marianas Trench, the Pacific, remote islands, and Rose Atoll Marine National Monuments and the regulation state of Hawaii and the state of Alaska.

It is then recommended that we adopt Recommendation Number 5. And the Recommendation Number 5 reads as the following, if I could find that -- in terms of subsistence fishing means fishing in which fish or Marine resources harvested are intended for personal, family or community consumption this through sharing or customary exchange.

We further went into defining the terms customary exchange and family. And the term customary exchange means nonmarket exchange of Marine resources between fishermen and community residents including family and friends for goods and/or services for culture, social and religious reasons.

Customary exchange may include recovery of costs for fishing trips expenses through monetary reimbursement.

The term family means all persons related by blood, marriage, or adoption or any person living within a household of a permanent basis.

This definition of family was taken out from the Alaska residents' use of marine mammals as it's stated in the Marine Mammal Act.

And I thought it would be good to use this definition since it's already approved by other NOAA federal relations so saying that Recommendation 5 as I said is recommended.

The area that in the MSA that will be affected and we propose adding new section in Section 2(a) defining purposes and policy that describes importance of subsistent fishing.

And to modifies section 2(a)9 by replacing commercial and recreational fisheries with all fisheries.

And three potentially expand Section 2(a)10 describing the uniqueness of the Pacific island areas to include the term subsistence.

Four expand section 3(b)3 to include subsistence along with commercial and recreational fishing.

Five add definition under Section 3 definitions.

And six review rest of the MSA to identify places where commercial and recreation fisheries or fishing can be replaced by all fisheries, or fishing or where subsistence can be included.

Upon saying that, that would be a recommendation that I recommended and hopefully that the MAFAC Committee would support it or if there are any other additional comments I would appreciate it.

And Heidi if there's anything that I'm missing I would appreciate your help in this area. And thanks again for everybody who has helped putting together some of this information for this issue. Thanks again.

Keith Rizzardi: Thank you Henry. Just for some clarification for the members. I know that Section 2 is generally referring to - some of the policy provisions or at least I understand that I mean the findings, purposes and policy provisions.

What's the piece of expanding Section 3 that you're trying to do specifically address? Could you elaborate?

Henry Sesapasara: Section 3...

Keith Rizzardi: What's the precise context in the act?

Henry Sesapasara: The term definition should include the definition for subsistent fisheries. I think Section 3 has a definition of the commercial and recreation fishing.

Keith Rizzardi: The Section 3 is definitions.

Henry Sesapasara: Yes.

Keith Rizzardi: Section 2 is findings, purposes and policies. And then the last recommendation is to identify places where the phrase commercial and recreational can be replaced by all fisheries or subsistence.

Henry Sesapasara: By all fisheries or fishing?

Keith Rizzardi: Right.

Henry Sesapasara: Yes.

Keith Rizzardi: Okay, so member discussion?

Julie Bonney: Keith this is Julie. Bonney

Keith Rizzardi: Hi Julie.

Julie Bonney: Hey. I'm just wondering -- and I apologize to Henry because I haven't been following this until today -- but the Senate draft has included the definition of subsistence in that.

And then they've gone through and added subsistence in terms of several of the references in the findings and purpose in policy sections.

Did he - did you look at kind of do a compare and contrast for that draft compared to what you're recommending here and if not why?

Henry Sesapasara: Honestly I did not Julie. And I have not had a chance to review the Senate recommendations.

Julie Bonney: So Keith can I follow up?

Keith Rizzardi: Please do.

Julie Bonney: Yes it seems to me, you know, and at least in the Hawaiian Islands and Alaska's since it's really big constituency base and drives many the policies at least in the North Pacific in terms of fishery management.

And the definition that is in the Senate draft is more Alaskanized I guess. And it seems to me that the definition that Henry is recommending is a little more on the Hawaiianized.

So I don't know whether it would make sense, you know, I don't have any objection to them to defining subsistence in the act.

I'm just wondering it would be wiser to try to think about what's in the Senate draft and make recommendations for changes in that versus going a totally different path.

So that's one what concern I guess I have. And then the other is I was looking at what was proposed in the Senate draft. And it looks to me like expand section 3(b)3 that you've got on your policies direction is actually 2(b)3 in the findings section, so I'm a little unclear if that's what you meant or - because I couldn't find a 3(b)3 in the definition section.

And then I guess my finding final comment is I get a little bit concerned about all fisheries and fishing versus adding subsistence I would - because I don't

know where there's something besides commercial recreational and subsistence that lives in the fishing world and if is just better to go with commercial, recreational, and subsistence versus all fisheries and fishing so those are my comments. And I - like I said I apologize for coming in on this issue late.

Henry Sesapasara: I have no problem with going back to looking at the Senate and see if where we could compare this.

Keith Rizzardi: Are there other member comments?

Columbus Brown: Yes this is Columbus.

Keith Rizzardi: Columbus.

Columbus Brown: Yes. Henry I understand that the Native American tribes have subsistence rights by treaty. And I know the Alaska natives certain subsistence rights by law.

The question I have of you is, is there a parallel treaty or other legislation that reserves subsistence rights to the remaining folks that you're concerned about?

Henry Sesapasara: I do not know of any agreement such as you indicated for the Alaska residents, Pacific islands. I'm not aware of any of those rights.

Columbus Brown: Okay. And the reason why I asked the question because the various tribes across the United States the one thing that they never ceded was there hunting and gathering rights so by treaty that's still out there.

And I know that there's special provisions by law for Alaska natives. And I don't know - I didn't know if similar rights were in cultural things were reserved for folks in the Western Pacific in a parallel manner. Does anyone know if that is so?

Keith Rizzardi: Okay crickets are chirping.

Heidi Lovett: So we - this is Heidi. We can try to gather that information but we don't have that right now.

Columbus Brown: Okay, you know, because my concerns are, you know, since those rights are so specific I think we have to be very careful in what we open up Magnuson up to so we don't end up with some unintended consequences because hey as a boy if I went fishing it was for subsistence purposes but and in my culture that was something that we did but that's not a right that it's been passed on to me through any other laws.

So I think it's important to, you know, make sure that we don't open this thing up and create a bigger problem.

Keith, Ken Franke on the line here. I have a question.

Keith Rizzardi: Thanks for joining us Ken. Go ahead.

Ken Franke: Yes does anybody from fund Northwest or Alaska know do they actually permit exchange financial exchange as a component of the subsistence fishing because that seems to be the core of what a lot of folks are concerned with.

Michele Longo Eder: This is Michele Longo Eder. I don't know the answer to that Ken but I agree with you that that is a concern.

The - and my comment as to that issue on the definition of customary exchange I don't think it should include the recovery of costs for actual fishing trip expenses.

The - I recognize and I think part of the problem is that indigenous communities have such varied practices in different regions.

And as Julie noted as Henry has noted and it makes it a little bit more complex. But in terms of actually amending MSA while I want regional councils to have flexibility to reflect what the regional cultural practices are I would not support amending the MSA to define or allow customary exchange to include fishing trip expenses.

Julie Bonney: This is Julie Bonney again. So basically in Alaska the way I understand it and this is the state of Alaska including for direct personal or family consumption as food, shelter, fuel, clothing, tools or transportations is how they define the use for subsistence.

So it's not a monetary exchange but a barter exchange. And I don't know I think what's in the Senate draft based on some tweaks that Chris Oliver with the North Pacific Council, the ED, made kind of gets you out of the trap of what you guys are not talking about in terms of how Henry's defined -- and now I forget the terminology now -- but the customary exchange.

Man: The Senate draft says customary trade.

Julie Bonney: Right.

John Corbin: This is John Corbin. Is - what is the concern with the comps putting the substances products into commerce? Is it market disruption? Is that what it - what the concern is from the commercial side?

Julie Bonney: Well I think that probably -- and maybe I'm no expert by any means -- but I think probably good example was here in Alaska where subsistence as a number one priority.

And there was a young lady here when they changed some of the rules for the halibut fishery basically was selling her subsistence caught halibut on the dock to buy a new four wheeler.

So it's about, you know, true subsistence lifestyle is not a means of creating, you know, an economic engine that's a complementary to a commercial fishery. And so how you walk that delicate line I don't know.

John Corbin: Well just as a follow-on it seemed to me that the subsistence contribution to a marketplace would be very small even, you know, if you have weekend warriors on the side of the road selling fish.

In Hawaii we have a 50 million pound a year consumption of seafood and it would hard to see how that component would disrupt that terribly much.

Pacific islands I'm sure are different but from Hawaii standpoint I can't see that that would be terribly disruptive.

Henry Sesapasara: This is Henry again. Just to give you - on the subsistence fishery. The importance of the subsistence fishery and I'm going to speak on behalf of Americans Samoa as my experience is more focused there.

Subsistence is before commercial fishing is introduced in American Samoa back in the early 70s 1970, 1971 and I'm talking about indigenous Samoan fisherman when commercial fishermen was introduced there with their grant from EDA introducing an Oregon style fishing boat called a dory.

The fleet started from there on. When it started there as commercial fishing they're 14 boats that were built 80% of the catch of so called commercial fishing fleet there 80% of the catch was still subsistence fishing because it was disputed.

Also customarily to families, relatives and high chiefs of the village, 20% was the commercial just to recover the costs and maybe some change to the fisherman's bucket.

Nowadays the commercial fleet that's moving to the additional double hull fishing boats called alias there is 30 plus fishing boats there now.

The fishing is a little shift from maybe 80% of the catch is commercial and 20% is just subsistence. And there are other boats that are 100% subsistence. So subsistence fishing in Samoa is very, very important as well as in Guam and in the North Marianas.

And I guess this is why we are asking to have a distinct definition of subsistence fishery in the MSA.

And this is as to the point of section 3(b)3 is to include subsistence along with commercial and recreational fishing because commercial and recreation fishing is defined in section 3(b)3 and not subsistence fishing. And this is why we are asking to include subsistence fishing in this definition.

Julie Bonney: Henry this is Julie. Would you oppose eliminating the customary exchange may include recovery of costs for actual fishing trip expenses through monetary reimbursement. That seems to be the clause that is giving people concern.

Henry Sesapasara: Well it's not really a big thing yes. I would go along with that.

Ken Franke: Yes, Keith, Ken Franke here. Yes I'd like to comment on that as well. I think you just hit the nail on the head because I think there's concern from the Gulf and the East Coast.

I'm respectful I think all of us are respectful of the island culture and the past practices there but we're talking on a national policy here.

And I think that monetary component if we withdraw that language then it becomes much more palatable to everybody. Thank you.

Keith Rizzardi: Thanks everybody. Henry I hear you as accepting as friendly the striking of customary exchange may include recovery of cost sentence?

Henry Sesapasara: Yes. I have no problem with that.

Keith Rizzardi: Okay. That's helpful. And I just want to point out for everybody's benefit, you know, there will continue to be obviously revisions of the proposals.

I don't think there's any way we'll keep up with all the draft linkage but I do think what's important in this document thus far is that we are identifying both the concept of defining subsistence fishing and including to some degree customary exchange and that MAFAC is endorsing that.

Henry I was hoping that on the very last bullet you could offer some clarification because I note that one of the other things that you're suggesting is that we should be mentioning subsistence elsewhere in the Magnuson Act.

I think it's important if we can to give some clarification as to context. I mean are you suggesting that we should be including subsistence fishing in rebuilding plans or not, you know, where should and is there any context that you can offer to where you'd like to see subsistence inserted into the Magnuson? And did you consider that at all?

Henry Sesapasara: Well Keith I think what we're looking here is that all fisheries and/or all fishing that would include commercial, recreation and subsistence fisheries.

But I am at this time not aware or cannot come up with an area where we could - I just put in their subsistence can be included in whatever area it need to be or could be included.

Keith Rizzardi: Okay. I ask because looking at some of the drafts I know that sometimes the concept of subsistence seems to be linked to recreational.

And where we're regulating recreational or engaging in management issues associated with recreational the amended version of the act would suggest that it will also be considering subsistence.

I guess the best I get here is if it says commercial and recreational in the act you're suggesting it should say commercial, recreational, and subsistence no matter what no matter where.

Henry Sesapasara: Correct.

Keith Rizzardi: Okay.

Columbus Brown: This is Columbus. I have one more quick question for Henry. When you gave your stats on historical fishing to what extent were those percentages based upon fishing and what is called the EEZ in those areas versus the territorial sea?

Henry Sesapasara: At the - as before the commercial fishing was introduced teaching the Samoans most of the fishing I would say 90% of fishing was within the territorial water three miles because the boats were smaller.

Now with introducing of the Dory style type of fishing boat from Oregon it's extended out to about 20 to 30 miles out from shore.

So there is quite a bit of fishing now. I would say - I cannot really give you a percentage but I would say the majority of the fish caught now with the additional catamaran fishing boat we have now are from the EEZ.

Columbus Brown: Okay. The reason why I asked the question because it, you know, sometime in the past I when I worked for fish and wildlife in Ontario. I did a lot of work with the Office of Territorial Affairs prior to many of these territories becoming sort of independent.

And my understanding back then was that historically the residence of islands were not fishing in the EEZ they tended to stay within the shallower water closer to home for much of which was for safety reasons. So I'm just wondering, you know, since Magnuson is really dealing with that EEZ to what extent is this really a problem?

Henry Sesapasara: Yes I said the commercial fishing was introduced it enables our indigenous Samoan fishermen to go out and discover new banks that are out beyond the three miles so most of the bottom fishing is done in those outer banks

Columbus Brown: Yes. So again, you know, so at what point does it become historical yesterday, two years ago, a hundred years ago or when? And that's what really complicates matters.

Michele Longo Eder: This is Michele. I think I have some of the same questions in regard to that. There is a recommendation to remove from the definition of subsistence fishing remove the language in waters customarily fished by that community.

And I would support continuing that to keep that language within the definition of subsistence fishing.

And hearing what some of what Henry has to say again I think illustrates how regionally we are very different in a lot of ways.

And so I guess unless there is some compelling reason not to I would want to continue to keep that language within the definition particularly since, you know, particularly as a national policy.

Keith Rizzardi: Henry any reaction to that? Was - is that something you could accept as friendly?

Henry Sesapasara: What language is - again and sorry?

Michele Longo Eder: That's okay. There is a recommendation that in the definition of subsistence fishing that the phrase in water customarily fished by that community be removed from the definition of subsistence fishing. And what

I'm saying is that I think it should continue to be included in the Magnuson definition.

Henry Sesapasara: I'm not sure Keith if - can you please phrase in a way that...

Keith Rizzardi: I - for purposes of your proposal what is being suggested is that your definition of the MSA would also include in waters customarily fished by that I community.

Henry Sesapasara: Yes. Yes I like to have that keep that in the definition.

Ted Ames: This is Ted Ames. I would tend to agree with that as well. The financial exchange and traditional fishing grounds were the two issues that bothered me and Henry seems receptive to that.

Keith Rizzardi: Okay. So the amendment as I'm capturing it would be to change the definition in the MAFAC recommendation to read as follows.

The term subsistence fishing means fishing in which the fish or marine so resources from waters customarily fished by that community are intended for personal family or community consumption or traditional uses, et cetera.

Ken Franke: Keith, Ken Franke. One additional piece maybe we might want to consider...

Keith Rizzardi: Yes sir.

Ken Franke: ...from the national perspective is that, you know, customarily fished except for those areas prohibited by law or statute maybe something like that -- so that we don't open Pandora's box in some area of the nation that we don't

really realize -- may customarily in the past been fished but may be a closed area now.

Keith Rizzardi: Customarily and otherwise legally finished. Okay.

Alan Risenhoover: Hey Keith would you entertain one question from the agency?

Keith Rizzardi: Please do. Thank you, Alan.

Alan Risenhoover: In the definition here Henry you talk of about subsistence fishing as meaning fishing in which fish or marine resources are harvested.

What do you mean by the marine resources part of it? There's the definition of fish in the act already, what are you envisioning with marine resources?

Henry Sesapasara: Well other resources like in Hawaii they have discovered a bank where coral those precious coral like the pink coral in the black coral some of those resources we have not identified at the present time.

Alan Risenhoover: Okay. But you're talking about only thing managed under the Magnuson Act?

Henry Sesapasara: Correct.

Keith Rizzardi: Alan does the language about customarily and otherwise legally finished give you comfort?

Alan Risenhoover: Well and again, you know, the administration isn't going to say anything right now about that but we'll look at that.

I would note, you know, that the Senate bill does include a definition of barter and seems to limit it to noncommercial the issue of customarily I think we would need to think a little bit more about.

Keith Rizzardi: Of course all right. Unless there's member objection I would like to give you a moment to anybody from the public to come up and allow folks to have a minute.

Coordinator: If you'd like to make a comment you can press Star 1. Record your first and last name when prompted.

If you'd like to withdraw your question you can press Star 2. Once again if you'd like to make a comment you can press Star 1. Give us one moment please for our first comment to queue.

Our first comment comes from Stephanie Madsen. Your line is now open.

Keith Rizzardi: Ms. Madsen?

Stephanie Madsen: Yes can you hear me now?

Keith Rizzardi: Indeed.

Stephanie Madsen: Okay. My name is Stephanie Madsen. I'm the Executive Director of the At Sea Processors and we participate in the federal waters off the coast of Alaska, Washington, and Oregon.

I just wanted to note I've been tracking the Magnuson language a little bit on subsistence. And I appreciate the conversation and the thoughtfulness of the comments today.

I just wanted to add that there's another aspect to this that I don't have a suggestion on but just for the participants that in Alaska we often encounter subsistence species in the federal fisheries.

It's not that the subsistence users are fishing in the federal waters but because we encounter their species such as Chinook salmon for example there may be some implications when we start adding some of the language in Magnuson.

I'm not sure there would be. Like I said we're investigating the use of the language and where it appears in the act.

We were a little concerned about the appearance of subsistence fishing in a rebuilding section or a habitat section that indicated that maybe the tribes might have to get permission.

But I just note that for other people that are in federal fisheries that may encounter subsistent species in their fisheries.

This makes them - this may have some implications to think about. So I just thought I would offer that comment. Thank you.

Keith Rizzardi: Thank you for the comment. Are there other folks from the public?

Coordinator: There are no further participants in queue.

Keith Rizzardi: Okay returning back to member dialogue.

Dave Wallace: This is Dave Wallace. So where we are is Henry is going to go back and look at... pardon am I getting feedback here?

Heidi Lovett: You're still on Dave.

Dave Wallace: Okay. Henry is going to go back and look at the Senate version of subsistence and see if they somehow he can modify his to meet that or are we going to just take a - have a motion on Henry's proposal and let the committee decide what we're going to do under that circumstance?

If it is that we're just going to deal with Henry's then, you know, I will make a move that we accept Henry's proposal his recommendations and see if we get a second and then we can discuss it.

Keith Rizzardi: Is that Henry's proposal as modified Dave?

Dave Wallace: Yes as modified. As he modified as he has accepted.

Julie Bonney: Keith this is Julie Bonney.

Keith Rizzardi: Yes.

Julie Bonney: I - there's really two parts of the recommendation. So you have the path which is the one that Dave just put on where you could view - go back revisit the Senate draft and see whether there's some way to mail the two concepts or we can just move forward on Henry's concept with the two amendments that have been proposed which is to remove customary exchange and add in the waters subsistence that happens.

But then the third part that I'm concerned about is the addition of subsistence or all fisheries and fishing, and so I don't know if we want to take the issue of

the definition first which is the two paths I just talked about and then circle about where to add the word subsistence or all fisheries in the act after that?

Keith Rizzardi: So what you're suggesting we be proving the entire document except for the last bullet.

Julie Bonney: But I guess I'm - I have trouble with let's see adding - changing - I would rather be more prescriptive when you add in subsistence in concepts and instead of going with all fisheries I would prefer to see commercial subsistence and recreational fisheries when you modify. And then also I'm not in favor of the last bullet because I don't really know what that means.

Keith Rizzardi: Right. That was the line of inquiry I was engaging in. And what I thought I understood was what Henry intended here is if it's referring to both commercial and recreational in the act then it should also refer to subsistence.

Henry Sesapasara: Correct.

Julie Bonney: Right. But I guess on that Henry just to be clear is, is that may create more restrictions for subsistence fishing for rebuilding habitat other parts of the act, and I don't know that that's really something that you may want to do.

Michele Longo Eder: This is Michele. I would agree with Julie's comment. It's not that I don't think that there are going to be areas where subsistence fishing can be can be inserted but I would not be comfortable with making that recommendation blanket recommendation without having looked at all of the relevant places in the MSA and examining each of them.

I know that, you know, sample a tad tedious but there's certain to be implications where just adding subsistence have unintended consequences. So that's my thought.

Columbus Brown: This is Columbus. I agree with that comment.

Keith Rizzardi: Henry would you consider striking the last bullet?

Henry Sesapasara: I would. Keith?

Keith Rizzardi: Yes sir.

Henry Sesapasara: Okay did you hear what I said yes I will.

Keith Rizzardi: I do note Henry that if we leave that out it does leave NOAA looking for down the road additional instruction. And it leaves some ambiguity. And this may be a topic that's worthy of revisiting in future MAFAC meetings to try to put some meat on the bones as to how we should be managing fisheries and managing subsistence fisheries.

And in which circumstances should they be treated just like everybody else and then which circumstances should they be different?

Henry Sesapasara: Okay I understand.

Keith Rizzardi: So I think now we have a document that has substantively three amendments. The first one is revising the definition to refer to waters customarily finished and otherwise customarily and otherwise legally fished by that community.

The second piece is striking the language about customary exchange. And the third and the third change is deleting the last bullet. Dave with those three changes do you want to make your notion again?

Dave Wallace: Yes. I've move that we accept Henry's document with those three revisions.

Michele Longo Eder: Second for Michele.

Keith Rizzardi: Let me try it this way is there any opposition? Okay hearing on sounds like it passes unanimously.

Man: Congratulations Henry.

Henry Sesapasara: Thank you. Thank you everybody for supporting.

Man: Well done.

Keith Rizzardi: Thank you Henry for that effort. All right so that took a bit longer than we had originally scheduled which of course I anticipate it might happen.

The next topic on the agenda is aquaculture. So John Corbin you'll be going next. And I would anticipate that we'll probably need some time for you so I wanted to make sure Julie will you be available and Dave will you be available for our conference call on the 17th?

Dave Wallace: Yes.

Julie Morris: I am not available on the 17th.

Keith Rizzardi: Okay. Dave can you cover that?

Dave Wallace: Yes.

Keith Rizzardi: Okay. All right John?

John Corbin: Thanks Keith. Before I begin I want to thank Heidi and Stacey Nathanson of the Office of the General Counsel and Susan Bunsick of the Office of Aquaculture for their help in this issue.

We've posted the draft documents so I'll just try to highlight the results of the analysis for us. Of course this issue stems from several recommendations from the managing our nation's fisheries free conference.

MAFAC chose to look at MSA and aquaculture. Currently MSA is being used to permit research in the EEZ but aquaculture is not mentioned in it.

So we started with looking at the recent history of the issues for the last ten years, the need for a regulatory regime for aquaculture in the EEZ was recognized by past administrations and the Congress.

Since 2005 there have been three bills submitted and potentially a fourth bill in 2013 to create a development program and a regulatory system for EEZ aquaculture.

Virtually all of these bills focused on three things support, development of an offshore industry in the EEZ, safeguard the marine environment and coastal communities, and support R&D for industry expansion.

All of the measures indicated NOAA should be the lead agency and provided substantial resources for implementation, none of the measures passed.

During this time frame the regional fishery management council's became active in responding to the need for an EEZ aquaculture permitting process.

Three councils have been active the New England Council, the Western Pacific, and the most active the Gulf Coast Council.

The legal basis for these actions for the 1993 legal opinion that aquaculture is fishing as defined under MSA. Hence NOAA and the councils have the management authority over EEZ aquaculture.

The Gulf Council in particular did a tremendous amount of work including a programmatic EIS and a management plan for offshore marine aquaculture.

This was fully vetted in the region, went through a whole public review process and was adopted in 2009.

When the permitting process was adopted NOAA indicated that it would need to promulgate rules to implement this plan. These rules have been pending for five years and there is currently no date to move them to a public hearing.

Once implemented the Gulf plan and process will only apply to the Gulf region and the species under council management.

Again in this timeframe NOAA has embraced MSA as the vehicle to give concrete meaning to all the high level planning and policy statements that strongly support aquaculture farming in the EEZ.

For example the President's National Ocean Policy Implementation Plan of 2012 strongly encourages marine aquaculture.

NOAA also issued a National Marine Aquaculture Policy in 2011 which included guidance to councils of how to manage EEZ aquaculture. And this is quite extensive guidance.

Further NOAA has stated that the Gulf councils permit process and the pending rules is a model for other councils to follow to permit EEZ aquaculture.

So the working group considered two alternatives to remedy this lack of a permitting regime. One was to ask NOAA to review previous bills submitted to Congress and come up with a new comprehensive bill to address the urgent need for a program and a permit process.

And two to ask NOAA to make amendments during current reauthorization of MSA to clarify that aquaculture development in the EEZ is to be managed through MSAs essentially regionalizing planning and permitting decisions to NOAA and the councils.

Given the history and NOAA's strong commitment to MSA as the vehicle for a regulatory regime for EEZ aquaculture the working group chose the second option with the hope that it would be implemented with some greater sense of urgency than in the past.

After reviewing the 2007 version of MSA the Gulf plan and many related documents a MAFAC recommendation was drafted in four parts to amend MSA.

Part one was to include mention of aquaculture appropriate sections of Section 2 findings purpose and policy.

Part two included a definition of aquaculture in related terms, part three was to formulate a new title, Title V a national aquaculture management program based on the suggested outline and language provided. This would be modeled after the National Fisheries Management Program.

And part four is to describe a new funding authorization to be placed in Title V to support the establishment of a national aquaculture management program.

This is a brief description - there is I should say a brief description of each of these in the recommendation document.

In certain places of the recommendation we suggest specific language that addresses aquaculture. The language is similar level of detail and content as the fisheries statements in MSA.

While the language of the recommendations and organization of the Title V will certainly be subject to great change by NOAA. We believe that these ideas would best be conveyed by offering specific language. So that's what we did.

That is our recommendation option two for MAFAC. And I'll stop here and we can discuss it.

Keith Rizzardi: Thanks John for your report and for all the effort that you and the various members who send comments to you put in. It's got a lot to chew on. And I'm looking for member comments please.

Dave Wallace: Well this is Dave Wallace. And a general comment and it is obvious that if we manage the wild fish properly and sustainably then it is extremely limited in the overall production of the ocean in the US territory.

Therefore if we actually are interested in expanding fish protein the only practical way to do it is to have an active aggressive offshore aquaculture program where ultimately finding ways to have fish assimilate at least some fishable protein makes the ocean much more productive as far as generating fish protein.

And so, you know, otherwise we'll just have to import it from other countries who are far ahead of us both in Asia, and in Europe and South America.

And so I, you know, we need to do something. We just can't sit around and keep debating it in my opinion.

Keith Rizzardi: Thanks for the comment Dave, other members?

Michele Longo Eder: This is Michele. For me it's not - it's not going to be fruitful to discuss the merits or debits of (unintelligible) and aquaculture.

But what I have said previously and written comments that I've circulated is that I don't support amendments to the MSA regarding the establishment, management, or implementation of open ocean aquaculture.

I would at the beginning of John's comments he identified two options that the subcommittee considered. One is to recommend that NOAA, boy have a new bill or secondly make amendments and manage open ocean aquaculture through MSA.

And my position would be that the appropriate manner in which to address the development of aquaculture in the EEZ would be a separate that we recommend to NOAA that they introduce that they introduce a separate federal statute to establish a federal regulatory system providing a comprehensive nationwide approach for permitting and management of offshore aquaculture in the EEZ.

Keith Rizzardi: Thanks Michele.

Julie Morris: Keith this is Julie Morris. John last time we talked we talked a little bit about stock enhancement in the EEZ. And I thought that you agreed that you were going to include something about that in the issue paper but I didn't see it. So is it there and I just missed it?

John Corbin: It is Julie. Let's see if I can forward it to you. Yes I'm not finding it right now but to my memory what it said was that the definition that we proposed was forward-looking.

And in particular some of the activities like stock enhancement are not being utilized or currently aren't very active within the US within the United States and just noted that we felt we needed to mention that because it's in the future that stock enhancement will be important.

Julie Morris: It's in there somewhere...

John Corbin: That's not...

Julie Morris: ...the exact language but that paraphrases what I tried to convey.

Heidi Lovett: I found the language -- this is Heidi - it's on Page 4 of the issue document the issue paper under part one which is essentially up near the top of the second paragraph aquaculture is defined as the propagation and rearing of aquatic organisms for commercial, recreational or public purposes.

This definition includes production of aquatic plants and animals for one, food or other commercial products two, stock replenishment for commercial or recreational fisheries three, rebuilding populations of threatened or endangered species and for restoration and conservation of aquatic habitat.

Julie Morris: Right. It's there Heidi. But what I had asked for was a little bit more discussion about the ways that sort of we got to the point in the discussion where we said that stock enhancement was working with some of the anadromous fish that, you know, the hatchery released fish into rivers that then went out to the EEZ.

But my question was is anybody actually doing stock enhancement out in the EEZ? And I wanted a little bit of discussion in that in the issue paper.

So the other thing I wanted to ask about is in the draft recommendation you have this sort of adaptation of the national standards for aquaculture management towards the end of your recommendation.

And I was looking for - I know that they're modeled after the actual national standards in Magnuson. But I was looking for something there that addresses the concerns that people who are opposed to this have which have to do with the realm of things of is aquaculture in the EEZ going to directly or indirectly cause harm to native fish stocks?

And I think it's important that in the national standards for aquaculture there are going to be national standards for aquaculture that that's addressed in some way.

John Corbin: Well to respond Julie I'm happy to revisit that stock enhancement language and embellish it a little bit more to - and regarding the standards those are really sort of first approximation and very draft and including language along the lines of what you suggested I would have no objections there to trying to come up with something like that.

Keith Rizzardi: So John it wasn't your understanding that any of the other provisions would include that kind of analysis?

John Corbin: Well, you know, what we're trying to do with the national program is to create a framework within an MSA for the councils to consider and NOAA to consider and make decisions about aquaculture.

So it's, you know, its general, its guidance and really the decisions and the criteria for citing and for management are down at the council level as it is with the Gulf Council.

So what is appropriate in the statute would be some general language that describes that that process needs to happen but the actual discussion of a specific project and its impacts would be at the council level so that's...

Keith Rizzardi: Absolutely. I understood but I guess what I'm asking is in your outline of for example the last few pages of your recommendation the contents of a fishery management plan aquaculture.

John Corbin: Right.

Keith Rizzardi: Under one of those components would there by your understanding be an analysis of the effects of an aquaculture fishery upon other wild caught fisheries as any part of what's already listed?

John Corbin: Yes. I would imagine so certainly. Yes.

Keith Rizzardi: Could you - is there a chance that perhaps we could identify that and be more specific as to that so that we could nullify some of the returns of the MAFAC members for purposes of this document?

John Corbin: Yes absolutely. Yes we can certainly take a look at that.

Keith Rizzardi: So I guess you're thinking we'd have to kick it to the next conference call?

John Corbin: Yes, yes I think so.

Keith Rizzardi: Okay.

Ted Ames: And this is Ted Ames. I have a concern about using the Gulf of Mexico model as the plan for all waters. I know Alaska would have the same problems if not worse than what we have in the Gulf of Maine. And offshore aquaculture there has been attempted unsuccessfully.

And if the Gulf plan were used as a general framework it would be more appropriate for us for example.

Woman: What aspects of the Gulf of Mexico plan seem appropriate for the Gulf of Maine?

Ted Ames: There was terrible difficulty in the attempts made by the University of New Hampshire and Massachusetts in maintaining feeding stations and so on.

And it ended up being an attempt to grow codfish under - in a large tank underwater and being able to feed and attend them properly in bad weather was an overwhelming problem. So there clearly needs to be more work and more research for areas that are so exposed.

John Corbin: I guess -- this is John -- I would comment that the concept is to - that the Gulf plan is a model. And model in my mind is guidance.

And a great degree of flexibility is really granted to all of the regions to deal with their environments and the kinds of projects that come forward to locate.

Ted Ames: I think that's actually one of the strengths of this proposal is that it allows each council the discretion to develop their own plan in a way that's appropriate for their regions.

Keith Rizzardi: Okay are the other member comments before I open it up to public comment? Okay let's give a chance to public comment.

Coordinator: Once again if you'd like to make a comment you can press Star 1, record your first and last name when prompted.

Please make sure your line is un-muted before doing so. Give us one moment please. I'm showing no one in queue at this time.

Keith Rizzardi: Okay. Thank you for that. All right John it sounds like you at least have to double back on the one issue of identifying a place in this framework for analysis to be done about impacts on other fisheries.

Are there topics other than that, that the members would like to add some more discussion on because if we can ideally vet the other issues and then try to use the next conference call just to go back on that outstanding issue we might be able to expeditiously finish the aquaculture discussion and then take a quick vote on it at the next meeting?

John Corbin: Yes. I think that's a good idea.

Bob Rheault: Real quick Keith, this is Bob Rheault. I'm just sort of struck by the fact that we've been told several times that NOAA Council and NMFS are using this legal definition of aquaculture as fishing as their authority to regulate aquaculture.

So I think that if we are going to be defined as fishing and the fishery that at the very least the Magnuson Act ought to have a definition or mention of aquaculture in it somewhere. I think we'd be really remiss if we didn't at least insist on that.

Man: I agree with that.

Keith Rizzardi: So are you asking us to do something different right now Bob?

Bob Rheault: No. It's just I guess it's to Michele's point as to drop the ball entirely. I would say that at a bare minimum we'd be remiss if we didn't address the definition aspect.

I'm perfectly willing to carry on in this fashion and try and address the two concerns that were raised and try and keep perfecting this.

John Corbin: Keith this is John. Let me make a comment on that. We did have some feedback from the Office of the General Counsel which I appreciated very much.

One of the points made was that simply defining aquaculture in the MSA is not enough to use MSA for aquaculture development.

The definition would need to be tied to the other aspects other portions of MSA such as Title III and I believe the example of Section 3031 was used which is to form a management plan.

I think we've gotten around that by suggesting a national aquaculture management program. So the definition would be tied to the aquaculture the initial aquaculture management program. And I think that's an important point.

Julie Morris: Keith I have one more clarification. You've been asking for some inclusion of language that addresses the impact of open ocean EEZ aquaculture on other fisheries and I just want to unpack that a little bit.

There's the impacts on other fisheries in terms of the business of harvesting fish either recreationally or commercially in those waters.

And then there's the impact on the health of native fish local fish that are in the area as well as the ecological balance when you think about escapes case and stuff like that.

So it's when you say other fisheries I think you - I want to make sure that you mean both of those aspects of other fisheries.

Keith Rizzardi: Yes I do Julie. I understand your point. You're - I shouldn't be so quick to call it fisheries. I think you're saying fisheries in open ecosystem so...

Julie Morris: Yes, yes right.

Keith Rizzardi: So John, and Bob, and others I hope that gives you a little bit of stuff to chew on. And for next Tuesday hopefully we - you can identify where in your proposed plan that would be addressed and then we as a community can vote on a recommendation.

John Corbin: That's fine Keith. And I'm going to have the minutes of this discussion available. I've been taking notes as best I can but will the minutes be available to me particularly on my section?

Keith Rizzardi: Heidi?

Heidi Lovett: Yes. I'm taking some notes. And we will have a transcript. So I'm not 100% clear how quickly I get the transcript but I think it's within 24 to 48 hours.

John Corbin: That should be sufficient. Good.

Keith Rizzardi: And perhaps just, you know, if it does - if they need more for the whole transcript even if it was just for this portion of it and if they could accelerate this portion because the subsistence issue we were able to fully vote on it would be useful to John.

Heidi Lovett: Yes.

Keith Rizzardi: Thanks Heidi.

John Corbin: Okay thanks Heidi.

Keith Rizzardi: All right so unless there's any other member objection I'll try to move on to the next item. All right Julie can you start the discussion on overfished and depleted?

Julie Morris: Okay. So in the draft legislation by Representative Hastings there's proposals to change the word overfished to the word depleted wherever it appears in the MSA.

And the draft legislation also proposes changing the definition or the threshold at which a stock would be declared either overfished or depleted.

And the discussion of the issues that we've had in the committee meetings and conference calls up to this point have all agreed that MAFAC should recommend that the definition of threshold at which a stock is declared overfished or depleted should not be changed especially not in the way that Representative Hastings draft bill specifies.

We feel that that would allow stocks to decline to a level that would make it even more difficult to rebuild from.

And there would have to be a lot of science, and regulations, and change of procedures on how the benchmarks are set to determine what - at what point a stock would have to be rebuilt.

And so I don't think there's been any disagreement about that part of the MAFAC recommendation. And we can check on that right now among those who are on the call.

Columbus Brown: I agree, Columbus.

Man: Yes I agree.

Ted Ames: Yes same here. Ted Ames.

Dick Brame: Yes this is Dick. I agree.

Michele Longo Eder: This is Michele. I'm sorry Julie can I have some clarification about what you were asking us to agree to or disagreed?

Julie Morris: Yes do you want me to just say it again or do you have a...

Michele Longo Eder: Yes please.

Julie Morris: Okay so Hastings legislation proposes changing the definition of overfished and depleted. And it says that let's see the proposed change would be the benchmark would change from minimum stock size threshold which is now to something below the natural range of fluctuation associated with the production of MSY.

And so our recommendation is that we are comfortable with the benchmark for overfished depleted being minimum stock size threshold as it's currently calculated and would oppose changing that to something that we would work out to interpret the meaning of below the natural range of fluctuation associated with the production of MSY.

Michele Longo Eder: Thank you.

Julie Morris: So are you good with that?

Michele Longo Eder: Well let me offer an alternative if I may. I agree with you in terms of the definition. I don't think we want to change that.

But for my perspective and I'm sure it's true with everybody in this business language matters. And from when we are talking with the public about US marine stocks the - so much is about perception.

And I think all of us have probably had that experience of the public often times does - is not aware of how well-managed US fisheries are.

And the use of the word overfished is what to me and I think a number of people in my community in terms of the commercial fishing community gets heartburn about.

I think you made some really good points Julie in your issue paper about the, you know, a stock could be it's a little bit hard for me to...

Julie Morris: ...there's many things that cause a depletion of stocks and it's not just overfishing.

Michele Longo Eder: Thank you. That's thank you. That's what...

Julie Morris: And so that's the other part of this issue. Doesn't matter if we change the word from overfished to depleted?

And we've talked about it and I think the argument that you're articulating Michele which is that depleted is a more fair and accurate representation of what's going on with the stock because many different factors can contribute to stock depletion is true and people wouldn't disagree with that.

The - but the other argument that we're - been having or hearing is that when a stock is depleted no matter which - what the cause is really the only tool that fisheries managers have to contribute to the rebuilding of that stock is to manage how it's fished, or when it's fished or how much fish are harvested.

And so the management that can be applied is a fishing management tool. And so there's some concern and I think Dave and Ted have expressed this in previous conversations but if we that, you know, in thinking of downstream indirect consequences that changing the word to depleted may make it easier for fisheries managers to say well it's depleted because of climate change and we don't have to change anything about fishing because it's not depleted because of fishing whereas probably even if it's depleted by a pollution event or some giant hurricane that destroys the habitat the management measurement that needs to be taken is still a fisheries management measurement.

And so weighing those two things against each other where the recommendation from MAFAC comes down is that we are neutral on whether to change the word or not.

Michele Longo Eder: Julie...

Julie Morris: So...

Michele Longo Eder: ...thank you.

Julie Morris: ...go ahead.

Michele Longo Eder: Thank you for articulating so well the explanation. And my position would be that I do believe the word overfished should be changed to depleted but that would be without changing the definition of the word in the act.

Julie Morris: Okay so Keith we need to get some input from the other people on the call about where they want to land on this changing the word from overfished to depleted?

Keith Rizzardi: Yes. I think the two of you have helped vet the issue so other members...

Columbus Brown: This is Columbus. I don't think they should make the change.

Man: I don't think the change should be made.

Paul Clampitt: Well this is Paul Clampitt. I'm in agreement with Michele on this.

Ted Ames: And this is Ted Ames I would prefer going along with Michele as well. If that would at the very least eliminate the need for NMFS to prove that overfishing occurred it only needs to identify a stock as being depleted.

Dick Brame: This is Dick. I don't think the word ought to be changed.

Julie Bonney: This is Julie Bonney. I don't see the - it's basically optics. So I agree with the statement on the number eight is this is a low priority either way?

Bob Rheault: I'm with Julie Bob Rheault here.

George Nardi: I'm with Julie as well. This is George.

John Corbin: And this is John. I agree with Julie as well.

Julie Morris: So it sounds like we stayed neutral on the change of the word and we oppose the changing the definition for the threshold of overfished or depleted whatever it ends up being.

Man: That's correct.

Michele Longo Eder: Keith I'd appreciate it - I don't know what the process here is here is that the statement to NOAA then reflect that there was a minority opinion on the issue over changing the word?

Keith Rizzardi: I don't think there is all minority opinion because we're taking no position at all.

Michele Longo Eder: Oh okay. I did know we weren't - oh okay right.

Keith Rizzardi: I mean isn't that what it means to be neutral?

Michele Longo Eder: Right.

Man: Yes.

Keith Rizzardi: If I mean I think...

Michele Longo Eder: The minority position to change the word. The majority is to remain neutral. The minority position would be to change the word.

Keith Rizzardi: It's not even a majority minority issue here I mean this is just we're taking no position.

Michele Longo Eder: How about this Keith. How about somehow you can figure out a way to communicate that members of the committee, some of the members of the committee did advocate for a change in the word whereas the majority of them wish to remain neutral on the issue.

Keith Rizzardi: I do understand that Michele. And I note that your comments are part of the record on this whole discussion.

So you've made it very clear where you stand. The minutes reflect that but I think MAFAC as a body is simply taking no position. So I don't see a need for a minority or a majority report of any kind.

We're just saying we're - we've explain why we've taken no position. I think it reflects both sides of the debate. If there's a need to add some ascendance to reflect the other side of open to that but I think the point here is we're taking no position.

Julie Morris: Keith I want to point out that Heidi and I made a mistake in our final recommendation paragraph, our penultimate recommendation. And it says remain neutral and changing the word overfishing to depleted it should be remain neutral changing the word overfished to depleted.

Keith Rizzardi: Thank you for that.

Julie Morris: Okay.

Keith Rizzardi: And where is the committee on the other piece? Do we have - we do have a specific recommendation on the piece about recommending against the proposed change to the definition?

Julie Morris: Yes. I think (unintelligible) agreed with that earlier.

Man: Yes.

Keith Rizzardi: Do we have any dissent on that?

Alan Risenhoover: Hey Keith its Alan. Just for one point of clarification it sounded like you had no dissent. But that definition changed from the discussion draft to the introduced draft.

So the current of the House Bill the term depleted the definition of that reads like our definition of overfished in the national standard one guideline.

So again if the position is not to change the definition or add depleted I don't believe that matters but just for clarification to the committee they may want to take a look at Page 9 of the HR 4742 as introduced.

Keith Rizzardi: Thanks for that Alan. That's very helpful.

Julie Morris: That's great.

John Corbin: Keith this is John. Can I get a little clarification as to what my job is?

Keith Rizzardi: Are you doubling back to aquaculture?

John Corbin: I am. I'm sorry.

Keith Rizzardi: Okay. Let's hold off until we finish this one and that I'll double back.

John Corbin: Sorry. I thought we were concluded.

Julie Morris: No. We still to talk about regulatory flexibility.

John Corbin: Go ahead.

Keith Rizzardi: Julie I want to make sure I understand. Do you need to go back in light of Alan's comment and take a further look at the latest draft of Mr. Hastings bill?

Julie Morris: You're asking if I need to go back and look at it?

Keith Rizzardi: Or do we as a committee or can we simply proceed forward? I mean I do think Alan's made an important point if the change - if the proposed definition of overfished and depleted has changed...

Heidi Lovett: But it - Keith this is Heidi.

Keith Rizzardi: Yes?

Heidi Lovett: I would just say that amendments could still be brought up other changes might occur. So whatever the position of the committee is, you know, if it's a strong opinion to not change the definition then that can stand on its own regardless of if it is currently or not existing in a bill because those things change all the time.

Keith Rizzardi: Understand that. I'm asking the members whether or not we need to double back or if we - what this is and often if we're okay making this decision in the language that we have.

Julie Morris: Yes Keith it sounds like at a minimum like we either take Alan's word for it which seems like a pretty good bet.

Alan Risenhoover: I would personally put it about 80%.

Man: That high.

Alan Risenhoover: Yes I know. I'm stretching.

Heidi Lovett: But we could change how the preamble to the recommendation is worded if that's no longer the recommendation in the bill.

Keith Rizzardi: Yes and I would appreciate it also if we could be cautious in the way we phrase the language on neutrality because if we're trying to be neutral I don't want us to appear to be taking a position.

Man: Right. And I think that's the point Heidi was making was that you all are having a position on an issue not a specific condition of the bill.

Keith Rizzardi: Yes sir. So Julie do you need to double back?

Julie Morris: About depleted versus overfished?

Keith Rizzardi: You - I think I heard you saying you have to modify this document to change the issue statements and the language about the draft legislation and what's in it and then potentially we might have to tweak the recommendation.

Julie Morris: Okay. I'll do it.

Keith Rizzardi: Am I right?

Julie Morris: Yes.

Keith Rizzardi: Okay. So and that means that Dave you would have to present that at our next conference call since Julie won't be here.

Dave Wallace: Yes.

Julie Morris: We're a good team. We can handle it.

Keith Rizzardi: Okay. Okay so that's overfishing versus depleted unless there's any more member comment?

Julie Morris: Did we ask for public comment?

Keith Rizzardi: Thank you Julie. I guess we need some member comment or some public, rather.

Coordinator: Once again as a reminder if you'd like to make a comment you can press Star 1, record your first and last name when prompted.

If you'd like to withdraw you can press Star 2. Once again Star 1 to make a comment. Give us one moment please.

We do have a comment from Bob Gill. Your line is now open.

Bob Gill: Thank you, thank you Mr. Chairman for the opportunity to comment. And I'd like...

Keith Rizzardi: Sure.

Bob Gill: ...to offer a few thoughts that I haven't heard discussed relevant to the question of depleted and overfished.

One is that it seems to me that in terms of holistic management ecosystem based management depleted does a better job of describing the situation then does overfished.

Secondly I don't see where changing the terminology and not changing the management system makes any difference on how you're going to manage because the management system definition is not changed and I support that. Then the terminology used to describe it doesn't change the situation at all.

But the other item I'd like to bring up is and I've not heard discussed on any venue is that the term overfished and overfishing confuse almost routinely stakeholders in the various fisheries.

They don't understand the distinction and as such represents a barrier to their participation and understanding of what's happening.

For that reason which has not been mentioned that is another argument in my mind why completed makes better sense then overfished but I do support keeping the definition the same.

So my suggestion is that in light of these other aspects of the question that you might want to reconsider. Thank you very much.

Thank you for that comment sir, other public comments?

Coordinator: We have no further comment at this time.

Keith Rizzardi: Any additional member comment in light of the public comment?

David Wallace: Yes. We would still be stuck with overfishing the stock just you can't use depleted to replace both overfished and overfishing because they are two different actions.

And, you know, so if a stock is - assuming a stock is depleted we're going to still have to stop overfishing.

That would be the term that you would use to describe the management measure to protect that fish stock even if it's an environmental issue or as Julie pointed out a pollution issue you would not allow overfishing.

Julie Morris: Keith since we're going to be revising the issue paper anyway and the recommendation we can include the point that Bob Gill made about how it's confusing to participants.

Keith Rizzardi: I think that would be helpful Julie. And I think even in the statement of neutrality just to acknowledge the two sides of the debate would be helpful, you know, because I think there have been interesting arguments made on both sides.

Okay any further member comment on this one? Okay how about - rebuilding flexibility?

Julie Morris: Okay. So MSA currently requires overfished stocks to be rebuilt in as short a time possible not to exceed ten years with exceptions for species biological differences, international agreements and environmental conditions.

There are - there's a coalition of fishing groups that have called for flexibility to establish longer rebuilding times and those are reflected in proposed changes to the MSA.

So the options are to support the changes that appear in the Hastings bill which would allow greater flexibility for longer rebuilding times or we could maintain the current MSA language, or we could support some limited changes that are - don't go as far as the proposed changes in the Hastings bill but have been endorsed by the Pacific Fishery Management Council.

And those include flexibility to phase in over a three year period but not if it was a long lived slow growing species, replacing the ten year rebuilding time with a timeframe that's equal to the time of the stock to rebuild without fishing plus one mean generation.

They also supported if a stock is later found to have never been overfished they wouldn't be held to the rebuilding plan and they also are recommending a longer lifetime for emergency regulation.

So as background we point out that those who want flexible rebuilding times are primarily concerned with the adverse short term socioeconomic impact to user groups. And that's why they'd like more flexible rebuilding times.

And that those who support the existing MSA rebuilding times point to evidence that's been summarized in a paper by Steve Murawski and others that reviewed rebuilding plans worldwide and found that in most cases if you want to rebuild biomass you need to have big reductions right at the beginning of the rebuilding period in order to get good recruitment at the same time that fishing mortality is reduced.

And that if you start out with smaller reductions with a flexible phasing in of the rebuilding plan it usually takes longer to reach maximum sustainable yield and so you have a much longer period of restricted harvest and you might forgive some of the long term MSY that you're aiming to get.

So our recommendation is to maintain the existing language longer because of this concern that longer more flexible rebuilding times will slow down the rate of recovery and delay the benefits of rebuild stocks. It will take longer to reach those benefits.

And that the current MSA language allows rebuilding times that are longer when the biology of the stock dictates already so that it doesn't seem compelling or necessary to change MSAs since MSA already allows that. So that's the recommendation in the background.

Keith Rizzardi: Thanks Julie, member comment?

Michele Longo Eder: This is Michele. The - Julie thanks for that analysis and both in the issue paper and also Dave Wallace for the paper. It was really helpful and also your summary just now.

Columbus Brown: This is Columbus. I think your analysis is right on target.

Ted Ames: This is Ted. I fully agree to keep the time interval for a recovery the same.

Michele Longo Eder: Well this is Michele again. The options some of the options that have been presented are in particular looking for flexibility and have been suggested by the Pacific Fishery Management Council as specific needs identified.

On the first ones supporting they support limited changes. And I'm not the voice of the council but I do think that they have good a good message to recommend to this committee and to NOAA and that is to support flexibility to phase in rebuilding not overfish but rebuilding over a three-year period.

It does address the (unintelligible) of short term social economic effects. And I think that giving the councils some flexibility to address those issues is important.

I don't think I'm just not sure about the position that the MSA already allows it if that's what you're saying. I think that obviously the council has found that it doesn't in terms of direction from NMFS.

And so maybe there's a difference in regional interpretation of that but that certainly hasn't been the Pacific Council experience.

So that would be one opportunity where Magnuson could be amended to allow flexibility and perhaps take into consideration the fact that there are various - there are variations in the fisheries that the regional councils manage.

Secondly the other really potentially important one that has arisen on the west coast is that we support a position that if a stock is later found to have never been overfished it should not be held to be rebuilding provisioned. And let me give you an example of that.

Widow rockfish on the West Coast was identified as being overfished and it went into rebuilding provisions or process.

And a subsequent stock analysis recognized that it was in fact not overfished and yet in terms of management, management was still required to proceed along the rebuilding provisions which had significant management and social economic effects in this industry.

So, you know, we're looking for some flexibility some common sense flexibility that holding a stock to rebuilding provisions of the statute currently requires just isn't good solid management.

And I think from a credibility perspective when NOAA is dealing with its constituents whether it's the public, whether the commercial industry that - that's the kind of issue that if NOAA addresses it makes more sense to those to the spaces and to the people that are being managed in that context.

So I think of all of those recommendations that I supported from the Pacific Fishery Management Council, the one that supported a provision that if the stock is later found to have never been overfished that it's not held to rebuilding requirements that's the most important.

The next one then is supporting flexibility to phase in rebuilding over a three-year period. I don't agree nor do I support any extension of length for emergency regulations.

I think I can't speak for the Pacific Council but I think one of the reasons that councils might want that kind of flexibility is just that it is - we all know the management processes take a long time, sometimes emergency regs have to be implemented in order to - in the process of trying to get a plan for final regs in place.

But to make those emergency rags for a yearlong as opposed to 180 days does limit the public's ability to weigh in on the effects of an emergency regulation and obtain modification if necessary. So thank you for the opportunity here to express my views.

Keith Rizzardi: Thank you Michele, other member comments?

Julie Bonney: This is Julie Bonney. And I guess I'm somewhere in the middle on this. I was looking at the CCC consensus position as really probably what I am in favor of which is to allow - exemption should be limited in scope and carefully defined.

Suggest that the MSA codify exemptions, provide guidance regarding (unintelligible) circumstances and national standard guidelines.

So first of all I think that Hastings original draft -- and I haven't looked at the new version -- you could drive a Mack truck through in terms of building an argument for why you needed flexibility. And I don't agree with that because I do think we need to rebuild our stocks.

But I do think that there are exceptions in the world that need to be acknowledged and not be so hardwired as it is in the Magnuson.

So I don't know how to frame up those exceptions but I do think that there should be - so that's why a kind of like the CCC comment which is to keep it limited in scope and carefully defined.

Ted Ames: This is Ted again. I see the need the desire for flexibility but in the Gulf of Maine in New England the multispecies fishery has 13 individual species and they're they've become reproductively active between 3-1/2 years, three to

four years for the likes of cod and haddock, and 12 to 14 years for halibut and maybe 16 or better for redfish or rockfish species.

And, you know, you catch several different species in the same tow. So having a set comfortable intermediate level for stock recovery such as ten years makes a lot of sense even though I think collectively fishermen would rather not...

Man: Hello?

Keith Rizzardi: I have to - Ted you still there?

Ted Ames: Yes.

Keith Rizzardi: I have to intervene with a housekeeping matter. And I realize it's now 5 o'clock. From a notice standpoint Heidi and I okay to carry on for another ten minutes and see if we can bring this one over the finish line or get further clarity for purposes of the next call?

Heidi Lovett: Yes.

Keith Rizzardi: Okay.

Heidi Lovett: So long as you're the - I would take a poll of the whole group.

Keith Rizzardi: Okay does anybody need to jump off the phone instantly or can we go another ten minutes?

Man: Go another ten.

Woman: Let's keep going.

Heidi Lovett: We can keep going and you might want to take the public comment before five.

Keith Rizzardi: Absolutely. That's what I was hoping to do. So I'm going to open up for public comment if we can please?

Coordinator: Once again if you'd like to ask or make a comment you can press Star 1, record your first and last name when prompted.

Please make sure your line is unneeded before doing so. Give us one moment please. Our first comment comes from Bob Gill. Your line is open.

Bob Gill: Thank you again a couple of comments. One is I think one of the objections to the ten year rule on current Magnuson is that it's not biologically based.

And if we're going to base our fisheries management on science which with which I think we all agree then that's a rule that also ought to be scientifically based.

A comment on the recruitment for overfished stocks and rebuilding and that is the stock recruitment relationship is problematic in its own right.

In many cases we don't understand it. In red snapper for example the last assessment said there was no relationship between recruitment in spawning stock biomass.

And we just went through the same issue with gag grouper and there was no obvious relationship so the FSC fairly arbitrarily picked one.

So I think there are issues there. I agree with most of Michele's statements. I understand the concerns but I think something that's biologically based makes a lot more sense than just an arbitrary ten years. Thank you.

Coordinator: There are no...

Keith Rizzardi: Thanks Bob. Are there other public comment?

Coordinator: There are no further comments in queue.

Keith Rizzardi: Okay thank you. Continued member comment?

Woman: It sounds like we need to look at the CCC consensus position that Bonney pointed out. And I don't know how to determine how divided we are on the idea of phasing in rebuilding over a three year period.

My concern Bonney about the CCC consensus position is that it's sort of - we could agree with the generally that exemptions should be limited and carefully divined but it's really hard to see what that means.

Woman: Yes and through the chair to Julie I guess in some ways I'm not clear whether part of this is reacting to the Hastings draft versus trying to react to the limited scope of some of the requests of the Pacific Council.

It's to me it just seems like a recommendation is maintaining existing language basically says that we as MAFAC are really not into looking at how we - there might be the ability to define some definitions of flexibility that are acceptable in - both on a biological basis and an economic basis.

And so when it says maintain existing language it says to me that we're opposed to any change. So I guess that's multiple messages in that.

And I hear what you're saying it's easy to say that we're open to it but coming up with strict definitions may be problematic but saying that we're opposed says to me that we think that we're meeting the mandate that we need to under the Magnuson.

Julie Morris: I you know what I'm I read the plain language of Magnuson and it says rebuilding time shall not exceed ten years except in cases where the biology of a stock of fish, other environmental conditions or management measures under international agreement dictate otherwise.

And so I don't know if - I know in red snapper we asserted that they biology of stock mandated that we have a rebuilding time that was over 30 years.

So it seems like my experience is that it's possible to have a longer rebuilding time based on the biology of the stock.

And I don't know if people aren't using that or if the biology of the stock doesn't support longer rebuilding times and honestly I don't have enough experience with that because that's typically not an issue in the North Pacific.

Certainly the Pacific any of the Pacific members that I have talked to are really possessed on this particular issue and maybe their council is not interpreting the standards the same as your counsel dead.

Is anybody on NOAA fisheries staff able to shed any light on this in the conversation?

Alan Risenhoover: I think, you know, each council has addressed it a little bit differently. I'm not aware of the specific issues that it can't be extended say past the ten year threshold. The Pacific Council has a number of stocks I believe that are in rebuilding programs that are over ten years.

So it's really unclear what the problem is here. They want flexibility to do what? Well if the biology of the stock warrants it being over ten years that seems to be a rather current common occurrence. And I'm looking at others here to see and I'm not seeing any other thoughts.

Ted Ames: Well it would appear that if you have a fish that can reproduce at three years in ten years' time or in six years' time you would have an intact series of year classes but I can see terrible complications in the Northeast if you reduce it and fix it to the biology of the individual species.

Alan Risenhoover: Right so that's one of the comments we've heard on the Hastings bill in fixing it as minimum time to rebuild plus a generation time could do that where is under the current statute you have, you know, up to the ten years as long as it's as soon as possible.

Ted Ames: Well the Catch-22 is that allowing one year class to be produced doesn't rebuild your fishery all it does is it creates pulse three years down the road. We really need multiple years of successful reproduction to get it back.

Julie Morris: So Keith once again I can offer to add these points to the discussion but I would end up again at the same place in terms of a recommendation with the only exception being I feel I think Michele's point about if it's never been overfished we could lift the rebuilding plans the rebuilding provisions might be something worth including in our recommendation.

Columbus Brown: This is Columbus. The question that I have about Michele's comment is that if it wasn't overfished but the population has been suffering from certain losses we really shouldn't just open it up for fishing just because it hadn't been overfished in the past it's got to be based on some biological rationale to the extent we have good information. So I really don't see where that really that change would really help anything.

Ted Ames: Yes, no I just don't see how adding flexibility and in the very general in the very general term is going to do anything but further slowdown rebuilding stocks.

And I'm talking in particular about stocks in New England which are either overfished or depleted but the stocks are very low and yet the - many of the fishermen especially in ground fish are talking about socioeconomic impacts of having very, very restrictive produce and they need relief so that they can have higher extraction rates than would be adequate to rebuild the stock.

And so in that case, you know, I think that it's shortsighted to just do that. So that's the reason that I was in favor of opposing a lot of flexibility.

Julie Morris: Well and that's kind of where I'm ending up as well. And again I'm willing to add the main points to the discussion to the issue paper or the recommendation whichever makes the most sense but I think I would end up in the same recommendation.

Keith Rizzardi: So but Julie is that you're so you're suggestion at this point to go back, tweak the document and then do the up or down vote next meeting?

Julie Morris: Sure.

Keith Rizzardi: Dave are you okay with running that dialogue?

Dave Wallace: Sure.

Keith Rizzardi: Okay. Unless there's other member comments on that one I think we have three items that are carrying forward to the next conference call but I'm hopeful that it will be short.

I'd ask all of the folks who are working on it to do their best to try to circulate something by Monday so that members would have 24 hours to just see the amended version if you could please do an underlying strikethrough I think that would be super helpful. And Heidi can you circulate the information again for Tuesday's conference call?

Heidi Lovett: Yes. I think these are unique numbers so I need to - I'll be sending around a unique new phone number I believe. But it would be the same process.

Keith Rizzardi: Okay. I'm not anticipating as robust a discussion in light of all the stuff we worked our way through so hopefully we'll be able to give through the items expeditiously and then move on to some agenda setting for the MAFAC meeting in September.

So the other thing is Heidi please again make sure that materials are circulated for the month three list of important topics for MAFAC to tackle.

Heidi Lovett: Okay.

Julie Bonney: So Keith, Julie Bonney can I just ask a clarification?

Keith Rizzardi: Yes please.

Julie Bonney: So I thought that where we ended up was, is, you know, a modified definitions for subsistence and where it affects the Magnuson and there was some consensus on that.

Keith Rizzardi: Right.

Julie Bonney: And in terms of the aquaculture there are going to be some edits dealing with Julie Morris's comments and they'll bring that back for us for further decisions.

But then on the depleted and overfished I thought we made a decision to take no further actions but the documents were going to be revised. So we really only have two outstanding issues, is that correct?

Keith Rizzardi: Well there were the two parts to the depleted versus overfished. It was the one part that stayed neutral and there was the other part that recommended against.

Dave Wallace: Yes but I don't think that - are we going to be able to - we're not going to be able to resolve that, you know, we just - the conclusion is that way - it's a very low priority.

And we have and since we're not going to comment, you know, yes there are people who don't think that anything should be done and that everything should be look the way it is and then there's a group that feels minority group who feels that depleted would be the more preferable prescription description of the situation. And so I thought that it really that portion of it was actually completed.

Man: So we're not even to go back and revisit the document at all?

Dave Wallace: Not - what we - we're not going to change anyone's mind.

Keith Rizzardi: Right.

Dave Wallace: You know, and so do we want to just rehash what we've already rehashed and came to the same - we would commit to exactly the same conclusion, then and if you want to that fine but I see that as not constructive.

Keith Rizzardi: Certainly I don't want to have a pointless debate.

Dave Wallace: Yes.

Keith Rizzardi: I thought the issue here was, were we affirmatively recommending against the change in the definition that was in Representative Hastings Bill?

That - I realize that there was no way we were going to achieve any sort of consensus one way or another on changing overfished to depleted or vice versa?

Dave Wallace: Right.

Keith Rizzardi: But the other issue was the actual recommendation regarding that's in the Representative Hastings bill changing the definition and was MAFAC going to going to take a position on that, I thought that was still the open question.

Dave Wallace: Oh but that - but I thought that was a - well I see that is a different issue because we have no idea even what his new definition is. And so sometime this evening or tomorrow morning I will pull up HR 4742 and we will find out what it actually says.

Keith Rizzardi: Right. And then if we're - if at the end of the dialogue we're simply tabling the paper altogether and not proceeding with any MAFAC recommendation at all that's what I thought we would determine at the next meeting.

Dave Wallace: Okay.

Woman: Oh I thought that we were just going to change the sort of background and context but that the - we were going to have the - we'd agreed on what the recommendation was?

Keith Rizzardi: Right and that's the possibility too. I think the point here is you needed to double back and look at Representative Hastings bill.

Woman: Okay.

Dave Wallace: Yes so that was the take on message that we needed to look at Hastings bill and see what his new definition of depleted is.

Keith Rizzardi: Julie is that - does that accurately capture what you thought the discussion was?

Julie Morris: Yes. I thought the discussion was that the recommendation wasn't going to change but that we needed to update the preamble statement of the issue in order to catch up with how the bill has changed.

Dave Wallace: And recognizing that it may change another five times.

Julie Morris: Yes okay.

Dave Wallace: And we haven't heard from the Senate side which may change many times also. You know we really should just say our opinion on whether it's overfished or depleted is that we think that over the existing definition of overfished is the appropriate term.

And because that's where we are now but we don't know what the - because based on previous definitions of depleted and so, you know, it's going to be maybe a little different but it's still going to be basically the same I think. And I don't know when we'll find out.

And so, you know, I like you don't - not sort of too big on chasing our tail around circles but we surely could go through it.

Keith Rizzardi: Okay any other any other member comments or clarification for next meeting?

John Corbin: Yes this is John, Keith. I just want to be clear as to what I'm doing.

Keith Rizzardi: Yes please John.

John Corbin: We're shifting it to the members to just provide language on the concerns that were identified or would it be preferred to have the whole document again with the changed language in it? Am I clear with what I'm asking?

John Corbin: Well Keith you asked us to show correct changes right?

Keith Rizzardi: Yes. Ideally John I'd like to see it with underlying strikethrough of just whatever piece your adding or taking out to be responsive to the main concern that was brought by a couple members about how would impact other fisheries and ocean ecosystems be considered?

John Corbin: Fine. Right okay I understand.

Keith Rizzardi: So, you know, yes I imagine you might have, you know, a sentence that you're putting into the policy somewhere you might have a clarification to one piece of the outline of what the program looks like and that should be sufficient.

John Corbin: Right okay.

Keith Rizzardi: Okay other member comments, questions? Okay Heidi any last thing to contribute?

Heidi Lovett: No. Not this time.

Keith Rizzardi: Okay all right. Everybody thank you for a productive call. I will look forward to hopefully finishing the business on all these matters next Tuesday. Thanks everybody.

Woman: Thank you.

Man: Thank you.

Woman: Thank you.

Coordinator: This concludes today's conference. All lines may disconnect at this time.

END